

**JURY PLAN**

**FOR THE UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF ARKANSAS**

**ALL DIVISIONS, FOR THE RANDOM SELECTION OF GRAND AND PETIT JURORS**

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The amended Plan heretofore adopted by this Court for the random selection of grand and petit jurors, incorporating the revisions required by Public Law 92269, April 6, 1972, approved by the Judicial Council of the United States Court of Appeals for the Eighth Circuit on August 1, 1980, amended on July 27, 1981, September 20, 1984, December 22, 1988, January 25, 1993, and September 1, 1998, is hereby revoked and rescinded and the following plan is hereby adopted.

**APPLICABILITY OF PLAN**

This Plan is applicable to the Eastern District of Arkansas, which is divided by statute, Section 83 of Title 28, United States Code, into five divisions, as follows:

- (a) Northern Division (Batesville) consisting of Cleburne, Fulton, Izard, Independence, Jackson, Sharp and Stone Counties;
- (b) Eastern Division (Helena) consisting of Cross, Lee, Monroe, Phillips, Saint Francis and Woodruff Counties;
- (c) Jonesboro Division consisting of Clay, Craighead, Crittenden, Greene, Lawrence, Mississippi, Poinsett and Randolph Counties;

(d) Western Division (Little Rock) consisting of Conway, Faulkner, Lonoke, Perry, Pope, Prairie, Pulaski, Saline, Van Buren, White and Yell Counties;

(e) Pine Bluff Division consisting of Arkansas, Chicot, Cleveland, Dallas, Desha, Drew, Grant, Jefferson and Lincoln Counties.

Pursuant to the authorization contained in Section 1863(a), Title 28, United States Code, the provisions hereof are adopted as separate plans for the separate divisions of the Eastern District of Arkansas, unless specifically indicated to the contrary.

#### **POLICY**

This Plan is adopted pursuant to and in recognition of the Congressional policy declared in Title 28, United States Code, as follows:

##### **Section 1861 - Declaration of Policy**

"It is the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes. It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States, and shall have an obligation to serve as jurors when summoned for that purpose."

##### **Section 1862 - Discrimination Prohibited**

"No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status."

#### **MANAGEMENT AND SUPERVISION OF JURY SELECTION PROCESS**

The Clerk of the Court shall manage the jury selection process under the supervision and control of the Chief Judge of this District and there shall be no jury commission. The phrase "Chief Judge of this District," wherever used in this Plan, shall mean the Chief Judge of this District or in the Chief

Judge's absence, disability or inability to act, the active district court judge who is present in the District and has been in service the greatest length of time. Wherever the Jury Selection and Service Act of 1968, as amended, requires or authorizes the Plan to designate a district court judge to act instead of the Chief Judge, the above definition shall apply and such active district court judge above-mentioned is hereby designated to act. The use of the word "Clerk" in this Plan contemplates the Clerk and all or any of the Clerk's deputies.

#### **RANDOM SELECTION OF SUPERVISING GRAND JURY JUDGE**

The Chief Judge of this District, upon determining that a new grand jury should be empaneled at the request of the United States, will direct the Clerk to select at random a supervising judge for that grand jury from those district judges of this district, both active and senior, who are willing to serve. The duties of the supervising judge will include empaneling of the grand jury, ruling on motions arising from actions of that grand jury, and ruling on requests for excuses from service on that grand jury. The Chief Judge shall direct the Clerk to select at random another district judge to rule on matters arising from the grand jury in the absence, disability, or inability of the supervising judge.

#### **RANDOM SELECTION FROM VOTER LISTS**

**AND**

#### **MASTER JURY WHEELS**

Voter registration lists represent a fair cross section of the community in each division of the Eastern District of Arkansas. Accordingly, names of grand and petit jurors serving on or after the effective date of this Plan

shall be selected at random from voter registration lists of all the counties in the respective division.

The Clerk shall maintain a master jury wheel for each of the divisions within the District.

The Clerk shall make the random selection of names for the master jury wheels as follows. There shall be selected for the master jury wheel for each division, as a minimum, approximately the following number of names (or such other number as the Court may direct):

Northern Division	2,000
Eastern Division	2,000
Jonesboro Division	2,000
Western Division	8,000
Pine Bluff Division	2,000

The Chief Judge of this District may order additional names to be placed in the master jury wheels from time to time, as necessary. If the above numbers are less than one-half of one percent of the total number of registered voters for the division, the Court concludes that such percentage number of names is unnecessary and cumbersome.

The Clerk shall ascertain the total number of registered voters for each division and divide that number by the number of names to be selected for the master jury wheel from that division.

The quotient number for each division shall be the total number of registered voters in the division as certified to the Auditor of State as of June 1 of the year in which the lists being used are compiled, divided by the total number of names being placed in the master wheel for the respective division. The fractional remainder shall be divided by the quotient and those names also placed in the wheel. For instance, if there are 105,424 registered

voters in the Jonesboro Division (and assuming 2,000 names are placed in the wheel), that number will be divided by 2,000, producing the quotient of 52 with a remainder of 1,424. The remainder (1,424) will then be divided by the quotient (52), giving another 27 names to be added to the master wheel for a total of 2,027 names. The Clerk shall draw, by lot, a number not less than 1 and not greater than 52, and that name shall be selected from the voter registration list of each county in that division, along with each 52nd name thereafter. Thus, if the starting number is 10, the 10th, 62nd, 114th, 166th, etc., names shall be picked from the voter registration list of each county of that division.

Additional names may be drawn and placed in the Master Wheel from time to time as found necessary by a judge in authority under these Plans and the quotient numbers may be changed as needed, provided any drawing shall be uniform throughout the division so as to ensure that persons residing in each of the counties are proportionally represented.

The master jury wheel may be refilled on an annual basis, but shall be emptied and refilled every two years, in even numbered years between the date of publication of voter registration lists and the following January 1st.

This Plan is based on the conclusion and judgment that the policy, purpose and intent of the Jury Selection and Service Act of 1968, as amended, will be fully accomplished and implemented by the use of voter registration lists as the source of an at-random selection of prospective grand and petit jurors who represent a fair cross section of the community. This determination is supported by all the information this court has been able to obtain after diligent effort on its part and after full consultation with the Eighth Circuit Jury Working Committee and the Judicial Council of the Eighth Circuit.

**DRAWING OF NAMES FROM THE MASTER JURY WHEEL:**

**COMPLETING OF JURY QUALIFICATION FORM**

The Plan hereby incorporates the provisions of 28 U.S.C.A., Section 1864, which reads as follows:

"(a) From time to time as directed by the district court, the clerk or a district judge shall publicly draw at random from the master jury wheel the names of as many persons as may be required for jury service. The clerk . . . shall mail to every person whose name is drawn from the master jury wheel a juror qualification form accompanied by instructions to fill out and return the form, duly signed and sworn, to the clerk . . . by mail within ten days. If the person is unable to fill out the form another shall do it for him, and shall indicate that he has done so and the reason therefor. In any case in which it appears that there is an omission, ambiguity, or error in a form, the clerk . . . shall return the form with instructions to make such additions or corrections as may be necessary and to return the form to the clerk . . . within ten days. Any person who fails to return a completed juror qualification form as instructed may be summoned by the clerk . . . forthwith to appear before the clerk . . . to fill out a juror qualification form in the presence of . . . the clerk or the court, at which time, in such case as it appears warranted, the person may be questioned, but only with regard to his responses to questions contained on the form. Any information thus acquired by the clerk . . . may be noted on the juror qualification form and transmitted to the chief judge or such district court judge as the plan may provide.

"(b) Any person summoned pursuant to subsection (a) of this section who fails to appear as directed shall be ordered by the district court forthwith to appear and show cause for his failure to comply with the summons. Any person who fails to appear pursuant to such order or who fails to show good cause for noncompliance with the summons may be fined not more than \$100 or imprisoned not more than three days or both. Any person who wilfully misrepresented a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be fined not more than \$100 or imprisoned not more than three days or both."

**ONE-STEP SUMMONING**

Pursuant to 28 U. S. C. 1878, at the option of the district court, jurors may be qualified and summoned in a single procedure, in lieu of the two

separate procedures otherwise provided by the Jury Selection and Service Act of this Plan.

#### DETERMINATION OF QUALIFICATIONS, EXCUSES AND EXEMPTIONS

##### QUALIFICATIONS

This Plan hereby incorporates the provisions of 28 U.S.C.A., Section 1865, as amended (PL 92269), which reads as follows:

"(a) The chief judge of the district court, or such other district court judge as the plan may provide, on his initiative or upon the recommendation of the clerk . . . , shall determine solely on the basis of information provided on the juror qualification form and other competent evidence whether a person is unqualified for, or exempt, or to be excused from jury service. The clerk shall enter such determination in the space provided on the juror qualification form and the alphabetical list of names drawn from the master jury wheel. If a person did not appear in response to a summons, such fact shall be noted on said list.

"(b) In making such determination the chief judge of the district court, or such other district court judge as the plan may provide, shall deem any person qualified to serve on grand and petit juries in the district court unless the person:

"(1) is not a citizen of the United States eighteen years old who has resided for a period of one year within the judicial district;

"(2) is unable to read, write and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

"(3) is unable to speak the English language

"(4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or

"(5) has a charge pending against him for the commission of, or has been convicted in a State or Federal court of record of a crime punishable by imprisonment for more than one year and his civil rights have not been restored by pardon or amnesty."

### **NOTIFICATION OF SECRETARY OF STATE**

The Jury Administrator will notify the Arkansas Secretary of State when prospective jurors identify themselves as non-citizens on juror qualification questionnaires.

### **EXCUSES ON INDIVIDUAL REQUEST**

The Court finds and hereby states that jury service by members of the following occupational classes or groups of persons would entail undue hardship and extreme inconvenience to the members thereof, and serious obstruction and delay in the fair and impartial administration of justice, and that their excuse will not be inconsistent with Sections 1861 and 1862 of Title 28 and may be claimed, if desired, and shall be granted by the Clerk upon individual request:

- (1) Persons over 70 years of age.
- (2) Any person who has served as a grand or petit juror within the last two years in state or federal court.
- (3) Persons who are engaged in volunteer safety work, including, but not limited to, firefighters, rescue squad and ambulance drivers.

### **EMERGENCIES AND UNDUE HARDSHIP**

In the event of an emergency or situation that appears to impose an undue hardship on a person summoned for jury service and a judge is unavailable, the Court authorizes the Clerk to defer jury service until the Court has an opportunity to consider whether or not to provide a permanent excuse.



#### **EXEMPTION FROM JURY SERVICE**

The Court finds and hereby states that the exemption of the following occupational classes or groups of persons is in the public interest, not inconsistent with the Act, and shall be automatically granted: (1) member in active service of the armed forces of the United States; (2) members of the fire or police departments of any State, District, Territory, Possession or subdivision thereof; (3) public officers in the executive, legislative or judicial branches of the government of the United States or any State, District, Territory, Possession or subdivision thereof who are actively engages in the performance of official duties (public officer shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office).

#### **QUALIFIED JURY WHEEL**

The Clerk shall also maintain separate qualified jury wheels for each division in the District and shall place in such wheel the names of all persons drawn at random from the master jury wheels and not disqualified, exempt, or excused pursuant to this Plan. The Clerk shall ensure that at all times enough names are contained in the qualified wheel to ensure a random selection. The qualified jury wheel in each division shall be emptied and refilled when the master jury wheel for that division is emptied and refilled.

#### **DRAWING OF AND ASSIGNMENT TO JURY PANELS**

From time to time the Clerk, when so ordered by the Court, shall publicly draw, at random from the qualified jury wheel or wheels such numbers or names of persons as may be required for assignment to grand or petit jury panels, and the Clerk shall prepare a separate list of names of persons assigned to each grand and petit jury panel. Juror names (grand jurors,

prospective and sitting petit jurors) will not be disclosed to the public or media outside of open court, except upon order of the court. A request for disclosure of juror information to the media or public must be made to the presiding judge. The type of information that may be released is limited to the juror's name and city of residence. Unless ordered otherwise, juror information will be released upon request in either seven days from the conclusion of the trial or after completion of the jurors' term of service, whichever is longer. This policy applies to both civil and criminal cases.

#### **USE OF ELECTRONIC DATA PROCESSING METHODS**

##### **FOR JURY ADMINISTRATION**

The judges of the Court find that, in addition to the procedure outlined heretofore in this Plan for the random selection of names of prospective jurors to serve on grand and petit juries from the voter registration lists of the counties comprising each division manually, as well as the manual selection of names from master and qualified wheels, electronic data processing methods can be advantageously used for selecting and copying names from the voter registration lists of those larger counties that maintain these lists in machine readable forms such as punched cards, magnetic tapes or magnetic disc. It is further found that in smaller counties currently maintaining their voter lists in handwritten or printed form, it may be advantageous to employ a combination of methods whereby names are initially selected from the voter list manually and then recorded in punched cards, tapes or discs for subsequent handling and copying of these names by electronic machine methods.

Therefore, a properly programmed electronic data processing system or a combination system employing both manual and electronic machine methods may, at the Clerk's option and after consultation with the Chief Judge, be used to

select names for the master wheel from voter registration lists, or lists of actual voters, or any or all counties in the District, provided that the required proportions of names from each county are maintained.

Similarly, an electronic data processing system or a combination electronic and manual system may, at the option of the Clerk and the Chief Judge, be used to select names from the master wheel and from the qualified wheel for summoning persons to serve as grand or petit jurors, and for the creation of any papers and records needed by the Court to administer the recruitment, selection and payment of jurors.

If the court elects to use electronic machine methods or a combination of manual and machine methods, in connection with any or all the District's voter records, master jury wheels or qualified jury wheels, the name selection system shall be planned and programmed according to a "starting number" and "quotient" formula. This formula will ensure that any group of names chosen will represent all segments of source files from which drawn and that the mathematical odds of any single name being picked are substantially equal.

The "quotient" is simply the number of names in the sources list(s), or wheel, divided by the number of names wanted in any one drawing. In other words, it is the increment of names passed for each name taken. For instruction and example method for determining "quotient" and "starting number" for master wheel, see Page 4 of this Plan. If there are 2,010 names in the qualified wheel and the Court wishes to summon 100 jurors, the "quotient" for this drawing would be 20 (i.e., 2,010 divided by 100 = 20.)

The "starting number" is a number drawn by lot from a drum or box containing consecutively numbered cards or chips covering the same range of numbers as the "quotient" plus any remainder when the quotient is determined. For example, in the qualified wheel drawing mentioned above, the Clerk would place consecutively numbered chips from 1 to 30 (quotient of 20 plus the

remainder of 10) in a drum or box and draw one number. If the randomly picked number was "5", the computer would be programmed to pick the 5th name in the wheel first and then take every 20th name thereafter, i.e., the 25th, the 45th, etc.

Randomly drawing a "starting number" by lot accomplishes three objectives:

- (1) it establishes the location on the voter name list(s), or wheel, from which the first name is taken;
- (2) it removes the possibility of human discretion or choice in selection of any individual's name (making individual name selections unpredictable and unpredeterminable), and;
- (3) it ensures that, at the outset of the drawing, mathematical odds of being picked are substantially equal for all names in the source from which drawn.

#### **ALTERNATE METHOD AND MANNER OF RANDOM SELECTION**

At the Clerk's option, and after consultation with the Court, the selection of names from complete source list databases in electronic media for the master jury wheel may be accomplished by a purely randomized process through routines approved by the National Institute of Standards and Technology (NIST). Similarly, at the option of the Clerk, and after consultation with the Court, a properly programmed electronic data processing system for pure randomized selection may be used to select names from the master wheel for the purpose of determining qualification for jury service, and/or from the qualified wheel for summoning persons to serve as grand or petit jurors. Such random selections of names from the source list for inclusion in the master wheel by data computer personnel must ensure that each county within the jury division is substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. § 1863(b)(3). The

selections of names from the source list, the master wheel, and the qualified wheel must also ensure that the mathematical odds of any single name being picked are substantially equal.

#### **PUBLIC ANNOUNCEMENT OF THE PLACE AND TIME WHEN AUTOMATED**

##### **DRAWING OF NAMES WILL BE MADE**

Random drawings of starting numbers shall be publicly made in the office of the Clerk of the Court at times to be publicly announced on the Court bulletin board.

The office of the Clerk of the Court shall retain and, when requested, provide public access to the following documents:

- (1) the Court's "Juror Selection Plan," including a verbatim description of the method used in determining the "quotient" and "starting number,"
- (2) a verbal or graphically charted description of the procedure employed in the automated selection system, and
- (3) a copy of the Court's authorization and instruction order to the person or computer service organization which carries out automated name selection tasks for the court.

#### **GRAND JURIES**

Inasmuch as the Eastern District of Arkansas grand juries function on a district-wide basis, they shall be drawn by the Clerk by drawing a pro rata, or approximately pro rata, number of names at random from the qualified jury wheels of each division in the District and the names so drawn shall be pooled and shall constitute the grand jurors to report for duty.

### FREQUENCY OF SERVICE

In any two-year period subsequent to the filling of the qualified wheel, no person shall be required to:

(1) serve as a petit juror for a period exceeding 2 months, or shall be required to report more than 8 days during that 2-month period, except when necessary to complete service in a particular case. The Court may shorten the length of service in any division by standing order without further amending this Plan, or

(2) serve as a member of a regular grand jury for a period of more than one year, unless extended by order of the Court, or

(3) serve as a member of a special grand jury for a period exceeding the investigation for which it was empaneled or exceeding eighteen months unless extended as provided in 18 U.S.C. 3331, or

(4) serve on more than one grand jury, or

(5) serve as both a grand juror and petit juror.

Jurors who are summoned for service for a specific date, but whose reporting date is postponed due to settlement or other factors not under the control of the juror will have their beginning date for the service computed from the date summoned to appear. If a juror is not required to report during the period summoned to appear, the juror will be permanently excused from further service.

This Amended Plan shall become effective upon approval by the Judicial Council of the United States Court of Appeals for the Eighth Circuit.

SO ORDERED, this 17th day of November, 2005.

/s/  
J. LEON HOLMES  
CHIEF UNITED STATES DISTRICT JUDGE

/s/  
GEORGE HOWARD, JR.  
UNITED STATES DISTRICT JUDGE

/s/  
SUSAN WEBBER WRIGHT  
UNITED STATES DISTRICT JUDGE

/s/  
WILLIAM R. WILSON, JR.  
UNITED STATES DISTRICT JUDGE

/s/  
JAMES M. MOODY  
UNITED STATES DISTRICT JUDGE

/s/  
G. THOMAS EISELE  
UNITED STATES DISTRICT JUDGE

Jury Plan was amended on August 1, 1980; amended again on July 27, 1981; September 20, 1984; December 22, 1988; January 25, 1993; September 1, 1998; and August 15, 2000. The amendments incorporated herein are adopted by the Eastern District of Arkansas on November 17, 2005.